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9

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11 **UNITED STATES DISTRICT COURT**

12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 JOE M. LOPEZ,

14 vs.

15 CITY OF SANTA MARIA, SANTA  
16 MARIA POLICE DEPARTMENT,  
17 SANTA MARIA POLICE CHIEF  
18 DAN MACAGNI, SANTA MARIA  
19 POLICE COMMANDER CRAIG  
20 RITZ, SANTA MARIA POLICE LT.  
21 RICO FLORES, SANTA MARIA  
22 POLICE SGT. JESSE SILVA, SANTA  
23 MARIA POLICE SGT. RUSS  
MENGEL, SANTA MARIA POLICE  
OFFICER SHANE ARMSTRONG and  
DOES 1 through 10, inclusive,

24 Defendants.

16 CASE NO.:  
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27 COMPLAINT FOR DAMAGES FOR:  
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1. 42 U.S.C. § 1983 –  
EXCESSIVE FORCE  
2. 42 U.S.C. § 1983 –  
UNCONSTITUTIONAL POLICIES  
3. 42 U.S.C. § 1983 –  
SUPERVISOR LIABILITY

27 DEMAND FOR JURY TRIAL  
28

**JURISDICTION**

27 1. The jurisdiction of this Court is invoked under 28 U.S.C. §1331 and §1333  
28 arising under Title 42, U.S.C. §1983.

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

13 OCT -2 PM 2:06

FILED

## VENUE

2       2. Plaintiff's claims herein arise out of an incident involving Santa Maria Police  
3 Officers, in the County of Santa Barbara, State of California, and within the Central  
4 District of California, the judicial district in which the claim arose, pursuant to 28 U.S.C.  
5 §1391(b).

## PARTIES

7       3. Plaintiff, JOE M. LOPEZ, is a competent adult who is a citizen of the United  
8 States and resident of the County of Santa Barbara, State of California.

9       4.     Defendant, CITY OF SANTA MARIA, is a municipality operating pursuant  
10 to its Charter. It is a local government entity and is not an arm of the State of California  
11 for Eleventh Amendment purposes. The CITY OF SANTA MARIA POLICE  
12 DEPARTMENT is an agency of Defendant CITY OF SANTA MARIA.

13       5.     At all times herein mentioned, Defendant DAN MACAGNI was the Chief  
14 of Police of the Santa Maria Police Department and was responsible for implementing,  
15 maintaining, sanctioning or condoning the policies, practices and customs of the Santa  
16 Maria Police Department, including it's Special Weapons and Tactics ("SWAT") unit and  
17 of the Defendants sued herein. Plaintiffs sue Defendant DAN MACAGNI in both his  
18 official and individual capacity.

19       6.     At all times herein mentioned, Defendant CRAIG RITZ was the Commander  
20 of the SWAT unit and was responsible for implementing, maintaining, sanctioning or  
21 condoning the policies, practices or customs of the Santa Maria Police Department,  
22 including it's SWAT unit and of the Defendants sued herein. Plaintiffs sue Defendant  
23 CRAIG RITZ in both his official and individual capacity.

24       7. At all times herein mentioned, Defendants RICO FLORES, RUSS  
25 MENGEL and JESSE SILVA, were Police Officers for the Santa Maria Police  
26 Department, and were responsible for implementing, maintaining, sanctioning or  
27 condoning the policies, practices and customs of the Santa Maria Police Department,  
28 including its SWAT unit and of the Defendants sued herein. Defendants RICO FLORES,

1 RUSS MENGEL and JESSE SILVA are sued in both their official and individual  
2 capacities.

3       8. At all times herein mentioned, Defendant SHANE ARMSTRONG was a  
4 Police Officer employed by the Defendant CITY OF SANTA MARIA and assigned to the  
5 SWAT unit on December 8, 2011. Plaintiff sues Defendant SHANE ARMSTRONG  
6 in both his official and individual capacity.

7       9. Plaintiff is informed and believes, and based upon such information and  
8 belief, alleges that each of the defendants designated herein as a DOE is an officer,  
9 employee, or agent of Defendant CITY OF SANTA MARIA and are legally responsible  
10 for the policies, practices, customs and supervision of each and every other defendant, and  
11 thereby proximately caused the injuries and other damages as alleged in this complaint.  
12 The true names and capacities of DOES 1 through 10, inclusive, and each of them, are not  
13 presently known to Plaintiff, who, therefore, sues said defendants by such fictitious  
14 names. Plaintiff will amend this Complaint to show their true names and capacities when  
15 the same has been ascertained.

16        10. At all times herein mentioned, Defendants MACAGNI, RITZ, FLORES,  
17 SILVA, MENGEL, ARMSTRONG and DOES 1 through 10, and each of them, were duly  
18 appointed police officers, ranking officers and employees of the Defendant CITY OF  
19 SANTA MARIA and the SANTA MARIA POLICE DEPARTMENT, and were at all  
20 times acting under color of law as the employee, agent and representative of each and  
21 every other defendant. Defendant CITY OF SANTA MARIA is vicariously liable under  
22 California Government Code §815.2(a) for any and all wrongful, illegal and  
23 unconstitutional acts hereinafter complained of committed by the individual defendants  
24 employed by Defendant CITY OF SANTA MARIA.

## FACTS

26 | A. General Allegations Regarding the Excessive Use of Force on JOE M. LOPEZ

27        11. On December 8, 2011, in the early morning hours before 8:00 a.m., ten  
28 officers from Santa Maria Police Department SWAT, and Narcotics and Gang units, met

1 to prepare to execute a narcotics-related search warrant at 325 W. Agnes Street in Santa  
 2 Maria; an associated vehicle – a 2002 black GMC Yukon, and the person of Samyr  
 3 Marquez Ceballos (“Ceballos”). Santa Maria Police Officers Silva, Ruiz, Parker, Alvara,  
 4 Huffman, Cohen, Streker, Dix, Armstrong and Plaintiff (“the SWAT Officers”) attended  
 5 a briefing prior to executing the warrant. Officers Ruiz, Parker, Alvara and Cohen had  
 6 no prior SWAT training and/or experience. Officers Dix and Armstrong had less than one  
 7 year of SWAT training. Six of the ten officers assigned to the incident at 325 West Agnes  
 8 Street (Officers Ruiz, Parker, Alvara, Cohen, Dix and Armstrong) had never participated  
 9 in any SWAT call-outs prior to December 8, 2011. This was the first SWAT call-out for  
 10 Sgt. Silva as a SWAT team leader.

11       12. During the briefing, the SWAT officers were told that Ceballos was regularly  
 12 armed with a handgun and had been arrested for robbery, assault with a deadly weapon,  
 13 brandishing, possession, and being under the influence. They were additionally briefed  
 14 that Ceballos had threatened a shoot-out with the police in order to avoid future arrests and  
 15 had installed surveillance cameras at his residence.

16       13. Police surveillance on the morning of December 8, 2011, established that  
 17 Ceballos left his residence at 325 W. Agnes with two unidentified males and two children  
 18 around 7:45 a.m. Although the initial tactical plan called for the SWAT officers to  
 19 execute the warrant on Ceballos immediately when he left the house, the presence of  
 20 children caused the SWAT officers to pause and wait until the children were dropped off.

21       14. Although the SWAT officers hoped to find an advantageous area to stop the  
 22 Yukon that Ceballos was driving, it appeared to them that Ceballos became aware that he  
 23 was under surveillance. When the SWAT officers attempted to box in Ceballos’ vehicle,  
 24 Ceballos drove around their vehicles nearly hitting Officer Dix, and drove back to his  
 25 residence with the SWAT officers in pursuit. In an attempt to pull to a stop in front of his  
 26 house at 325 W. Agnes, Ceballos’ vehicle appeared to hit a parked car on the street  
 27 (although there was no damage), at which time Officer Streker deployed a flash bang in  
 28 order to distract Ceballos and effectuate a non-combative arrest. The remaining SWAT

1 officers then pulled in behind Ceballos' Yukon.

2       15. At the point when the Yukon appeared to impact the parked car, both  
 3 passenger doors of the Yukon opened and two (then unidentified) passengers exited the  
 4 Yukon. Officer Cohen saw an individual in a red shirt exit the passenger side of the  
 5 Yukon and he was detained without incident by Officer Streker. Officer Alvara gave  
 6 commands to the other passenger later identified as Salvador Ceballos ("Salvador"),  
 7 nephew of the suspect, to get on the ground. Initially, Salvador got on the ground but  
 8 failed to further comply with Officer Alvara's instructions. Officer Huffman came to  
 9 Officer Alvara's assistance and began wrestling with Salvador in order to place Salvador  
 10 in handcuffs.

11       16. Officer Cohen approached the passenger side of Ceballos' vehicle and saw  
 12 Ceballos still in the driver's seat. Officer Cohen heard and then saw fellow officers,  
 13 including Officer Parker, near the driver's door, giving commands to Ceballos to "show  
 14 your hands." Ceballos failed to comply. Officer Cohen then saw Ceballos with his left  
 15 hand up and his right hand concealed next to the driver seat in the center area of the  
 16 vehicle. Ceballos continued to refuse to follow commands. Ceballos told the officers,  
 17 "Fuck you," or words to that effect. Officer Cohen moved towards the right front bumper  
 18 of the Yukon to avoid a potential crossfire situation. Officer Parker deployed his TASER  
 19 Electronic Control Device ("ECD") into the suspect.

20       17. Through the front windshield, Officer Cohen saw Ceballos bring a gun up  
 21 with his right hand and point it in the direction of the officers outside the driver's side  
 22 door. Officer Cohen then fired four rounds at the suspect through the Yukon windshield.  
 23 None of those rounds hit anyone. Almost simultaneously, Officer Silva moved in and  
 24 grabbed the actively resisting Ceballos to remove him from the car. At this point, Ceballos  
 25 momentarily dropped his gun which landed in the driver's door pocket. Ceballos quickly  
 26 retrieved the gun as the SWAT officers were trying to get him out of the car. Officer  
 27 Cohen heard multiple officers yell "gun, gun, he's got a gun." At this point Officer  
 28 Armstrong, who had been assisting Officers Alvara and Huffman detain Salvador, saw

1 Ceballos reaching for his gun from his driver's door pocket (the gun had landed there  
2 when he momentarily dropped it) and shot two or three rounds at Ceballos, hitting him at  
3 least one time.

4 18. As Officer Silva and Plaintiff worked to remove Ceballos from the car and  
5 take him to the ground, Officer Streker saw Ceballos pointing his gun at Officer Dix.  
6 Officer Streker moved closer and began firing multiple rounds at the suspect. He hit  
7 Ceballos three times and hit Officer Silva in the hand. At the same time, Officer Dix saw  
8 the weapon pointed at him and he fired one or two rounds.

9 19. Simultaneously, Plaintiff, who was at the driver's side door assisting Officer  
10 Silva remove the suspect from the Yukon, started to reposition himself as he heard shots  
11 being fired by Officer Armstrong at Ceballos. Plaintiff was shot once in the leg by  
12 Officer Armstrong.

13 20. As a result of this incident, Ceballos was shot six times by the combined  
14 rounds of Officer Streker (3 hits, 1 miss), Officer Armstrong (1 or 2 hits, 1 miss), and  
15 Officer Dix (1 or 2 hits) and died immediately at the scene. Officer Cohen's shots injured  
16 no one but, instead, lodged in the dash, radio, and passenger compartment. In addition  
17 to Plaintiff being shot in the leg by Officer Armstrong, Officer Silva was shot twice, once  
18 in each hand, by either Officer Streker, Dix, or Armstrong. A total of twelve rounds were  
19 fired.

20 **B. Allegations Regarding Damages.**

21 21. By reason of the wrongful and malicious acts of defendants, and each of  
22 them, and of the fright caused plaintiff, plaintiff has suffered extreme and severe mental  
23 anguish and physical pain and has suffered anatomic injuries including a severe and  
24 debilitating gunshot wound to the leg. Plaintiff will amend his Complaint to set forth the  
25 true nature and extent of his injuries when the same have been ascertained.

26 22. By reason of the wrongful acts of the defendants and each of them, plaintiff  
27 was required to and did employ physicians and surgeons to examine, treat and care for  
28 him, and incurred additional medical expenses for hospital bills and other incidental

1 medical expenses in an amount which has not yet been ascertained. Plaintiff is informed  
2 and believes and thereon alleges that he will incur additional medical expenses, the exact  
3 amount of which is unknown at the present time.

4       23. By reason of the wrongful acts of the defendants and each of them, and the  
5 physical injuries he suffered in this incident, plaintiff has been unable to attend to his  
6 work and perform his normal duties as a Santa Maria Police Officer thus incurring loss  
7 of wages in an amount which has not yet been ascertained. Plaintiff is informed and  
8 believes and thereon alleges that he will also incur future loss of earning capacity, the  
9 exact amount of which is unknown at the present time.

10       24. The intentional and reckless acts of defendant SHANE ARMSTRONG in  
11 shooting Plaintiff were willful, malicious, oppressive and in conscious disregard of  
12 Plaintiff's constitutional rights, thereby justifying the imposition of punitive or exemplary  
13 damages against defendant SHANE ARMSTRONG and in favor of plaintiff.

14       25. By reason of the aforementioned acts and omissions of defendants and each  
15 of them, plaintiff was required to and did retain an attorney to institute and prosecute the  
16 within action, and to render legal assistance to plaintiff that he might vindicate the loss and  
17 impairment of his aforementioned rights; and by reason thereof, plaintiff requests payment  
18 by defendants of a reasonable sum as and for attorneys fees and costs pursuant to **Title**  
19 **42 U. S.C. § 1988.**

## **FIRST CAUSE OF ACTION**

### **Violation of Civil Rights – 42 U.S.C. §1983**

**(Against Defendant Shane Armstrong)**

23       26. Plaintiff repeats and realleges the allegations contained in Paragraphs 1  
24 through 25 of this Complaint and reincorporates said paragraphs as though fully set forth  
25 here.

26       27. In the turmoil of events heretofore described, Defendant ARMSTRONG  
27       mistook Plaintiff for the gun-wielding Ceballos, aimed his rifle at Plaintiff, who was only  
28       a few feet in front of him, and using deadly force shot Plaintiff in the leg by advancing

1 and firing without legal justification or excuse and despite the risk of serious injury and  
2 death.

3       28. Defendant ARMSTRONG, acting under color of law, deprived Plaintiff of  
4 rights, privileges and immunities secured to them by the Fourth and Fourteenth  
5 Amendments of the United States Constitution in subjecting Plaintiff to excessive and  
6 unreasonable deadly force causing Plaintiff to suffer serious and debilitating injuries, all  
7 without due process of law. Said wrongful, illegal and unconstitutional conduct by  
8 Defendant ARMSTRONG is a proximate cause of the injuries suffered by Plaintiff, and  
9 of the losses and damages sustained by Plaintiff as hereinafter alleged.

10       29. As a proximate result of the wrongful, illegal and unconstitutional acts of  
11 Defendant ARMSTRONG, Plaintiff is entitled to be compensated for the denial of his  
12 constitutional rights under the Fourth and Fourteenth Amendments for the pain and  
13 suffering sustained by Plaintiff following the shooting, loss of earnings and earning  
14 capacity, and mental and emotional distress.

15       30. Plaintiff has hired an attorney to proceed with this action under 42 U.S.C.  
16 §1983 and has become obligated to pay attorney's fees and costs. By virtue of 42 U.S.C.  
17 §1988, Plaintiff is entitled to attorney's fees and costs from Defendants, and each of them.

18       31. The intentional and reckless acts of Defendant ARMSTRONG in shooting  
19 Plaintiff were willful, malicious, oppressive and in conscious disregard of Plaintiff's  
20 constitutional rights, thereby justifying the imposition of punitive or exemplary damages  
21 against Defendant ARMSTRONG.

## SECOND CAUSE OF ACTION

**Violation of Civil Rights – 42 U.S.C. §1983 - Unconstitutional Polices  
(Against City of Santa Maria, City of Santa Maria Police Department,  
Dan Macagni, Craig Ritz, Rico Flores, Russ Mengel, Jesse Silva  
and DOES 1 through 10)**

27       32. Plaintiff repeats and realleges the allegations contained in Paragraphs 1  
28 through 31 of this Complaint and reincorporates said paragraphs as though fully set forth

1 here.

2 33. Defendant CITY OF SANTA MARIA and Chief DAN MACAGNI  
3 possessed the power and authority to adopt policies and prescribe rules, regulations and  
4 practices affecting the operation of the City of Santa Maria Police Department and its  
5 tactics, methods, practices, customs and usages relating to the administration and  
6 supervision of CITY OF SANTA MARIA POLICE DEPARTMENT employees,  
7 including, but not limited to, overseeing, training, internal investigations, personnel,  
8 supervision, record maintenance, the use and deployment of firearms and other dangerous  
9 weapons, tactics for conducting suspect detentions and arrests and the use of deadly force  
10 by its rank and file officers, including its SWAT officers.

11 34. Plaintiff is informed and believes, and based upon such information and  
12 belief, alleges that Defendants CRAIG RITZ, RICO FLORES, RUSS MENGEL, JESSE  
13 SILVA possessed the power and authority to adopt policies and prescribe rules,  
14 regulations and practices affecting the operation of the CITY OF SANTA MARIA  
15 POLICE DEPARTMENT and its tactics, methods, practices, customs and usages relating  
16 to the administration and supervision of CITY OF SANTA MARIA POLICE  
17 DEPARTMENT employees, including, but not limited to, overseeing, training, internal  
18 investigations, personnel, supervision, record maintenance, the use and deployment of  
19 firearms and other dangerous weapons, tactics for conducting suspect detentions and  
20 arrests and the use of 14 deadly force by its rank and file officers, including its SWAT  
21 officers.

22 35. At all times herein mentioned, Defendants CITY OF SANTA MARIA, CITY  
23 OF SANTA MARIA POLICE DEPARTMENT, MACAGNI, RITZ, FLORES,  
24 MENGEL, SILVA and DOES 1 through 10, and each of them, knowingly and  
25 intentionally promulgated, maintained, applied, enforced and with deliberate indifference  
26 to the consequences thereof, permitted the continuation of policies, practices, customs and  
27 usages in violation of the Fourth and Fourteenth Amendments to the United States  
28 Constitution, including, but not limited to, the following:

- 1                   a)     Failing to implement an adequate training program for SWAT officers;
- 2                   b)     Failing to adequately and properly staff a SWAT team by maintaining
- 3     a SWAT team with less than a full compliment of SWAT officers (10-12 rather than the
- 4     recommended 18 members) so that it was comprised of a full compliment of officers
- 5     sufficient to safely perform and accomplish SWAT missions and objectives;
- 6                   c)     Employing partial SWAT team activations in order to avoid paying
- 7     overtime to additional SWAT officers.
- 8                   d)     Approving and implementing tactical plans for specific SWAT call-
- 9     outs, including the instant case, that the SWAT officers had never trained for or utilized
- 10    in actual field operations such as vehicle interdiction;
- 11                   e)     Failing to adequately and properly fund the SWAT team so it could
- 12    safely perform and accomplish SWAT functions;
- 13                   f)     Failing to adequately and properly equip the SWAT team so it could
- 14    safely perform and accomplish SWAT missions;
- 15                   g)     Enlisting police officers on short notice to participate in SWAT call-
- 16    outs, including the instant one, who had no prior SWAT training and/or experience;
- 17                   h)     Failing to develop and implement a SWAT operations manual which
- 18    would describe in detail the purpose, role and conduct of SWAT officers and SWAT
- 19    missions;
- 20                   i)     Failing to develop and implement a call-out Matrix which would
- 21    objectively determine the severity of a particular situation thereby identifying those
- 22    situations which required a SWAT call-out;
- 23                   j)     Failing to embrace accepted SWAT tactics universally used by the law
- 24    enforcement community throughout the United States including “surround and call-outs”
- 25    because of the costs involved in paying additional SWAT officers including overtime;
- 26                   k)     Failing to adequately train SWAT officers in the use of firearms as
- 27    well as constitutional limitations in the use of deadly force;
- 28                   l)     Failing to adequately train its officers, including its SWAT officers,

1 in identifying a person that presents a threat of deadly force or violence, as opposed to one  
2 that does not;

5 n) Failing to adequately train its officers, including its SWAT officers,  
6 in apprehending and detaining a criminal suspect in an area occupied by fellow SWAT  
7 officers;

10 p) Failing to adequately train its officers, including its SWAT officers,  
11 in the proper and appropriate use of deadly force in an area occupied by fellow SWAT  
12 officers;

19                   s)     Failing to adequately train its SWAT officers to properly function as  
20 cells or teams when attempting the apprehension and detention of a criminal suspect;

24 u) Failing to investigate in good faith, allegations of excessive and  
25 unreasonable use of force by its officers, including its SWAT officers;

26 v) Failing to discipline its officers, including its SWAT officers, who use  
27 excessive and unreasonable force; and

28 w) Failing to provide necessary resources, equipment, staff and funding

1 to adequately prepare and train SWAT officers in SWAT operations and tactics.

2       36. Pursuant to said policy, practice, custom and usage, Defendants MACAGNI,  
3 RITZ, FLORES, MENGEL, SILVA and DOES 1 through 10, and each of them, violated  
4 Plaintiff's Fourth and Fourteenth Amendment rights to the United States Constitution in  
5 a manner, including, but not limited to, the following:

6           a)     Shooting Plaintiff in the leg with a firearm at a distance of less than  
7 ten feet by advancing and firing, thereby using unreasonable deadly force causing Plaintiff  
8 to suffer serious and debilitating injuries.

9           b)     Conducting an unreasonable search, apprehension and detention of a  
10 criminal suspect with known dangerous propensities with inadequate surveillance and  
11 planning, utilizing police officers who had no SWAT training or experience, failing to  
12 adequately conduct a simulated practice drill, rehearsal or walk through, failing to make  
13 certain that the SWAT officers understood their assignment, failing to provide  
14 communication and identification by and between SWAT officers.

15           c)     Shooting Plaintiff in the leg without being reasonably certain that the  
16 intended shooting victim was not a fellow SWAT officer.

17           d)     Failing to provide adequate training, supervision and supervisory  
18 control of the SWAT unit and its officers.

19           e)     Assigning Defendant ARMSTRONG to the SWAT team knowing that  
20 he lacked adequate training and the experience necessary to participate in SWAT  
21 operations.

22           f)     Conducting a SWAT operation in a manner which was likely to result  
23 in the use of excessive and deadly force to innocent citizens and fellow officers.

24       37. Defendant ARMSTRONG was highly likely to inflict the particular injury  
25 suffered by Plaintiff by virtue of the aforesaid policies, practices, customs and usages of  
26 Defendants CITY OF SANTA MARIA and the SANTA MARIA POLICE  
27 DEPARTMENT, including the inadequate staffing and training of its SWAT team, all  
28 of which demonstrated Defendants deliberate indifference to the rights of Plaintiff and

1 constituted a proximate cause of the shooting of Plaintiff and the losses and damages  
2 suffered by the Plaintiff as alleged herein.

3       38. The CITY OF SANTA MARIA is liable for the wrongful, illegal and  
4 unconstitutional acts and omissions which were ratified and condoned as the policy,  
5 practice, custom or procedure of the CITY OF SANTA MARIA and the CITY OF  
6 SANTA MARIA POLICE DEPARTMENT. Defendants MACAGNI, RITZ, FLORES,  
7 MENGEL, and SILVA and DOES 1 through 10, ratified and condoned the actions of  
8 Defendant ARMSTRONG and the SWAT unit, including, but not limited to, the  
9 following:

10           a)     Allowing Defendant ARMSTRONG to gather with, and speak to, the  
11 other SWAT officers involved in the raid after the shooting of Plaintiff, thereby permitting  
12 Defendant ARMSTRONG to unduly influence, poison and contaminate their  
13 recollections of the events of the raid and the wrongful, illegal and unconstitutional  
14 shooting of Plaintiff;

15           b)     Failing to conduct an investigation in good faith into the facts and  
16 circumstances of the wrongful, illegal and unconstitutional shooting of Plaintiff, including  
17 the failure of the CITY OF SANTA MARIA to memorialize the statements that Defendant  
18 ARMSTRONG made to the other SWAT officers following the shooting;

19           c)     Failing to implement philosophy, practice, policy, customs and  
20 procedural changes following the shooting of Plaintiff;

21           d)     Failing to discipline Defendant ARMSTRONG as a result of the  
22 shooting of Plaintiff and allowing him to remain a sworn police officer on behalf of the  
23 CITY OF SANTA MARIA; and

24           e)     Unduly influencing the District Attorney of Santa Barbara and her  
25 staff to alter its investigative report of the shooting in order to cover-up and diminish the  
26 liability of Defendant ARMSTRONG, the CITY OF SANTA MARIA and the  
27 Defendants, and each of them.

28           //

### THIRD CAUSE OF ACTION

**Violation of Civil Rights – 42 U.S.C. §1983 – Supervisor Liability  
(Against Defendants Craig Ritz, Rico Flores, Russ Mengel,  
Jesse Silva and DOES 1 through 10)**

39. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 38 of this Complaint and reincorporates said paragraphs as though fully set forth here.

8       40. At all times herein mentioned, Defendants RITZ, FLORES, MENGEL,  
9 SILVA and DOES 1 through 10, and each of them, acted as supervisors in connection  
10 with the SWAT raid of December 8, 2011, which resulted in the unlawful, illegal and  
11 unconstitutional shooting of Plaintiff. Defendants, and each of them, actively participated  
12 in the supervision of the rank and file officers, including its SWAT officers and  
13 supervisors, involved in the planning, instruction, direction, deployment, staffing, and  
14 choice of equipment, regarding the raid. Defendants RITZ, FLORES, MENGEL, SILVA  
15 and DOES 1 through 10, and each of them, had a duty to properly instruct, supervise,  
16 train, plan, direct, staff, oversee and discipline the City of Santa Maria Police Officers that  
17 were involved in the subject raid.

18       41. Defendants RITZ, FLORES, MENGEL, SILVA and DOES 1 through 10,  
19 and each of them, were actively involved in the planning, staffing and conduct of the raid.  
20 Defendant SILVA participated in the raid and set in motion a series of acts by his  
21 subordinates. Defendants RITZ, FLORES, MENGEL, SILVA and DOES 1 through 10,  
22 and each of them, acted, and failed to act, in a manner that was reckless and amounted to  
23 a callous or deliberate indifference to the constitutional rights of Plaintiff. The acts and  
24 omissions of Defendants, and each of them, proximately caused the shooting of Plaintiff  
25 and the damages complained of herein.

26 42. Defendants RITZ, FLORES, MENGEL, SILVA and DOES 1 through 10,  
27 and each of them, in their capacity as supervisors with personal involvement in directing  
28 subordinates and in setting in motion a series of acts, knew, or should have known, that

1 their subordinates were likely to inflict constitutional injury to Plaintiff or anybody else  
2 at the scene. The wrongful acts and omissions by the supervisors, include, but are not  
3 limited to, the following:

4 a) Failing to provide adequate instruction and training regarding the use  
5 of deadly and excessive force knowing there would be innocent citizens and fellow SWAT  
6 officers at the scene. Defendants, and each of them, failed to provide adequate instruction  
7 and training in regard to identifying a real threat, as opposed to a fellow SWAT officer.

8 b) Failing to adequately plan the raid, requiring a detailed walk-through  
9 or rehearsal drill, making sure that the SWAT officers understood their assignments and  
10 eliminating confusion between SWAT officers.

11 c) Failing to provide adequate training in light of the dangerous and lethal  
12 weapons and tactics that were selected by Defendants, and each of them, to be employed  
13 in the SWAT raid.

14 d) Failing to provide adequate training so that its SWAT officers would  
15 keep track of each other.

16 e) Failing to provide adequate training and supervision in live-fire drills  
17 under circumstances similar to the subject incident.

18 f) Enlisting Santa Maria police officers to participate in SWAT call-outs,  
19 including the instant one, who had no prior SWAT training or experience; and

20 g) Failing to oversee and control the conduct of Defendant  
21 ARMSTRONG who had no SWAT training and/or experience and was not a regular  
22 officer assigned to the Santa Maria Police Department's SWAT team.

23 43. Defendants RITZ, FLORES, MENGEL, SILVA and DOES 1 through 10,  
24 and each of them, ratified the wrongful, illegal and unconstitutional acts which  
25 proximately caused the shooting of Plaintiff, and, as such, acquiesced, condoned,  
26 acknowledged and consented to the unconstitutional acts of their subordinates.

27 //

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## PRAYER

**WHEREFORE**, Plaintiff seeks judgment as follows:

**AS TO ALL CAUSES OF ACTION**

1. General damages in an amount according to proof;
2. Special damages in an amount according to proof;
3. Attorney's fees pursuant to 42 U.S.C. §1988;
4. Costs and expenses of this litigation; and
5. Such other and further relief as the Court deems just and proper.

## AS TO THE FIRST CAUSE OF ACTION

10       6.      Punitive and exemplary damages against Defendant ARMSTRONG only in  
11 an amount sufficient to punish, deter and set an example.

12 || DATED: October 1, 2013

WILLIAMSON LAW FIRM  
WHITE & REED



By

PETER M. WILLIAMSON  
Attorneys for Plaintiff  
JOE M. LOPEZ

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands trial by jury pursuant to *Fed. R. Civ. P. 38(b)*.

3 DATED: October 1, 2013

4 WILLIAMSON LAW FIRM  
5 WHITE & REED

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8 By \_\_\_\_\_  
9 PETER M. WILLIAMSON  
10 Attorneys for Plaintiff  
11 JOE M. LOPEZ  
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